

REMARKS

The Examiner has rejected Claims 23 and 25-30 under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 1,426,239 to Witzberger ("Witzberger") in view of BE 883121 ("the '121"). Applicant first notes that the submission of art does not constitute an admission that such art is prior art to the present application.

Claims 22, 24, and 31-42 stand previously withdrawn. Claims 1-21 stand previously canceled. Claims 22-42 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current Claims 23 and 25-30. An early Notice of Allowance is therefore requested.

I. SUMMARY OF RELEVANT LAW

The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the burden under 35 U.S.C. § 103 to establish a prima facie case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

II. REJECTION OF CLAIMS 23 AND 25-30 UNDER 35 U.S.C. § 103(A) BASED ON WITZBERGER AND THE '121.

The Office Action rejects Claims 23 and 25-30 under 35 U.S.C. § 103(a) as being unpatentable over Witzberger in view of the '121. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claim 23 recites, in part:

"A snap fastening suitable for mounting fittings in openings
in a thin wall, comprising:

a head part which is to be arranged on one, outer side of the thin wall and which overlaps an outer rim of the opening;
a body part which proceeds from the head part and projects through the opening in the mounted position; and
holding elements which project from the body part and are resilient in direction of the body part's outer surface against spring force, a free end of these holding elements being provided with a first inclined surface configured to support the body part without play on the rim or edge of the opening of the other, inner side of the thin wall, the free end further comprising a second inclined surface configured for slam action;
wherein said body part, holding element, and a spring generating the spring force are separate parts;
wherein said holding elements are slides which are arranged so as to be displaceable in a cylinder that is parallel to a plane of the thin wall and is rectangular in cross section;
wherein said slides are held against pressure spring force by a hook arrangement locking between the slides or in the cylinder; and
wherein the first inclined surface is inclined with respect to the plane of the thin wall at an acute angle of more than 0° and less than 90°."

Accordingly, Claim 23 calls for a holding element being displaceable in a cylinder of the body part that is **rectangular in cross section**. Witzberger shows a body 1 which is provided with a round bore in which are mounted two telescoping members of **circular cross section**, see lines 30-34 and Fig. 4 of Witzberger.

Holding elements in the form of slides shiftable inside a channel of **rectangular cross-section** have well-defined self-blocking functionality provided by friction between the bottom wall of the channel and the upper wall of the channel opposite thereto and the corresponding surfaces of the slide, the friction being provided by the pressure of the rim of the breakthrough onto the first inclined surface into which breakthrough the device carrying the channel is mounted. This self-locking effect is only present in one direction of the slide-movement while in the other direction the spring-force will move the slide to close any play which might develop.

Witzberger does not provide the blocking effect whatsoever since there is no first inclined surface at an incline of an angle of more than 0 degree and less than 90 degrees

with respect to the inner side of the wall. Furthermore, the body part, holding element and the spring generating the spring force of citation '121 are not being separate parts, because holding element 19 and the spring 19 generating the spring force are the same part.

The '121, does not provide for self-blocking effects because there is no slide and no channel involved. Nor does the '121 disclose friction between a bottom and a top wall thereof. Therefore the artisan will not apply the teaching of the '121 to the device of Witzberger. Nor does it provide for self-blocking effects because there is no slide and no friction involved. For the same reasons with respect to the same recitations, independent Claim 26 is also allowable. Accordingly, Applicant respectfully asserts that Examiner has failed to establish a *prima facie* case of obviousness of Claims 23 and 26. Applicant thereby requests reconsideration and withdrawal of the rejections to 23 and 26.

As the remaining non-withdrawn pending claims each depend from independent claims 23 and 26, they are therefore believed patentable for at least the same reasons. As nothing in the references cited in the Office Action cures the above-identified deficiencies, Applicant respectfully requests a reconsideration and withdrawal of the rejections. As each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,

/Eugene LeDonne/

Eugene LeDonne -- Reg. No. 35,930

Joseph W. Treloar -- Reg. No. 60,975

Brian M. McGuire -- Reg. No. 55,445

FROMMER LAWRENCE & HAUG LLP

745 Fifth Avenue

New York, NY 10151

Tel.: 212.588.0800

ELD:JWT

135408-2036